

DEVIN DERHAM-BURK #104353
CHAPTER 13 STANDING TRUSTEE
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Trustee for Debtor(s)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA - DIVISION 5

In re:) Chapter 13
) Case No. 12-58816 ASW
HA, MINH TAM C)
) Fourth Amended
) TRUSTEE'S OBJECTION TO
) CONFIRMATION WITH CERTIFICATE OF
) SERVICE
)
) Confirmation Date: N/A – Trustee's Pending List
)
)
) Judge: Arthur S. Weissbrodt
)
Debtor(s))

Devin Derham-Burk, Trustee in the above matter, objects to the Confirmation of this 0% Plan for the following reasons:

1. The Plan is in violation of 11 U.S.C. §1322(d) as the term exceeds 60 months. As proposed, the term is approximately 574 months. The term cannot exceed 60 months from the date the first payment was due.
2. The Trustee is unable to determine if the Plan is in compliance with 11 U.S.C. §1325(a)(4). Pursuant to the debtor's testimony at the Section 341 Meeting of Creditors, held on March 31, 2014, the debtor has assets in USA Global Inc, however; it has been omitted from Schedule B. An Amended Schedule B must be filed to list the value at the time of filing.

- 1 3. The Trustee is unable to determine if the Plan is in compliance with 11 U.S.C.
2 §1325(a)(5). The debtor has listed six creditors on Schedule D but has omitted said
3 creditors from the Plan. An amended Plan must be filed to add these creditors and
4 served. Note: The debtor has provided a letter from Bank of America stating that the
5 loan on the residence has been forgiven; however, said creditor still needs to be on the
6 Plan.
7
- 8 4. The Trustee is unable to determine whether the liquidation test in 1325(a)(4) is met. In
9 order to verify the debtor's interest in all of the real properties listed, the Trustee requests
10 that the debtor provide a grant deed for each of the properties.
11
- 12 5. The debtor has failed to file a certificate of service to show that all creditors were noticed
13 of the First Amended Plan filed July 16, 2013 [Docket #92]. In order to ensure compliance
14 with Fed. R. Bankr. P. 2002 and 11 U.S.C. §1325(a)(1), the Trustee is unable to recommend
15 confirmation until after a Certificate of Service is filed showing that all creditors have been
16 noticed.
17
- 18 6. The Trustee is unable to determine if the Plan is in compliance with 11 U.S.C. §1321.
19 The debtor has failed to provide a dividend to unsecured creditors in Section 2(d) of the
20 Plan. An Amended Plan must be filed and served on all creditors.
21
- 22 7. The plan is in violation of 11 U.S.C. §1322(b)(9). The debtor has failed to provide for
23 the vesting of property in Section 6. An Amended Plan must be filed.
24
- 25 8. The Trustee is unable to determine if the Plan is in compliance with 11 U.S.C.
26 §1325(a)(1). The Trustee cannot determine the term of the Amended Plan filed July 16,
27 2013 [Docket #92].
28

- 1 9. The Trustee is unable to determine if the Plan is in compliance with 11 U.S.C.
2 §1325(a)(4). The debtor has failed to complete the Schedule C-Property Claimed as
3 Exempt. An Amended Schedule C must be filed and served on all creditors.
4
- 5 10. The plan is in violation of 11 U.S.C. §1325(a)(4), in that creditors would receive more
6 under Chapter 7 liquidation. There is excess equity in the debtors' real and personal
7 property while unsecured creditors will receive nothing under the proposed 0% plan. The
8 Trustee is unable to determine the amount of equity for the following reasons:
- 9 a. The debtor has listed six properties on Schedule A; however, the debtor has not
10 provided for the full values for all of the properties. An Amended Schedule A
11 must be filed.
 - 12 b. The debtor has listed the real property located at 115 New York Avenue Los
13 Gatos, CA 95030 with a value of \$36,064 on Schedule A; however this property
14 has been omitted from Schedule D. An Amended Schedule D must be filed.
15
- 16 11. The debtor has omitted her prior Chapter 7 case 12-55263 from the Voluntary Petition
17 Page, and therefore is not in compliance with Fed.R.Bankr.P. 1005 and 11 U.S.C.
18 §301(a). An Amended Voluntary Petition Page must be filed.
19
- 20 12. The debtor has omitted her AKA "Minhtam Catherine Ha" from the Voluntary Petition
21 Page, and therefore is not in compliance with Fed.R.Bankr.P. 1005 and 11 U.S.C.
22 §301(a). An Amended Voluntary Petition Page must be filed and served on all creditors.
23
- 24 13. The Trustee requests that the debtor provide her with a balance sheet for her business as
25 of filing date October 1, 2012. Until the requested document has been provided, the
26 Trustee is unable to perform her duties under 11 U.S.C. §1302(b)(1) (incorporating 11
27 U.S.C. §704(a)(4)) and is unable to recommend confirmation of the proposed plan.
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1 14. The Trustee is unable to perform her duties under 11 U.S.C. §1302(b)(1) (incorporating
2 11 U.S.C. §704(a)(4)) because the debtor has not provided her with the tax return for the
3 tax year 2013. Until this tax return has been provided, she is unable to recommend
4 confirmation of the proposed Plan.
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8 **THE TRUSTEE STRONGLY RECOMMENDS DEBTOR CONTACT AN**
9 **EXPERIENCED CHAPTER 13 ATTORNEY FOR ASSISTANCE. DEBTOR'S**
10 **FAILURE TO COMPLY WITH THE BANKRUPTCY CODE MAY RESULT IN**
11 **DISMISSAL OF THE CASE.**
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15 Dated: July 18, 2014

/S/ Devin Derham-Burk

Chapter 13 Trustee
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Said envelopes were addressed as follows:

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